

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
SEPTEMBER 10, 2013 – 6:00 P.M.  
NEW CITY HALL  
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor  
Presiding

Also Present:  
Bryan Long, City Manager  
Frank V. Jensen, City Attorney  
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Dr. Keith Miles Central Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One  
Keith Jackson, Ward Two  
Rosemary Bellino-Hall, Ward Three  
Jay Burk, Ward Four  
Dwight Tanner, Jr., Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
Doug Wells, Ward Eight

ABSENT:

None.

PRESENTATION OF OUTSTANDING CITIZEN RECOGNITION TO DONNA CAMPOS-BARAHONA

Mayor Fitch presented a Certificate of Commendation to Donna Campos-Barahona from the Mayors Office.

AUDIENCE PARTICIPATION:

Boys and Girls Club participants presented a musical number.

Chief James Smith, Lawton Police Department, announced that the Cops and Kids picnic will be held on Saturday, September 14<sup>th</sup> from 10:00 a.m. to 1:00 p.m. in Elmer Thomas Park.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF AUGUST 13, 2013.

MOVED by Wells SECOND by Jackson to approve the minutes of August 13, 2013. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Tanner requested item #14 be addressed separately.

MOVED by Burk SECOND by Jackson to approve the consent agenda with the exception of item #14. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in making payment on the judgment in the Workers' Compensation case of Brian Unroe in the Workers' Compensation Court, Case No. 2012-06395K. Exhibits: **Resolution 13-54.**
2. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Kenneth Lindsey. Exhibits: **Resolution 13-55.**
3. Consider authorizing acceptance of the award of a \$250,000.00 grant from the 2013 Oklahoma Attorney General's Safe Oklahoma Grant Program. Exhibits: None.
4. Consider approving the waiving of special assistance and property usage fees in the amount of \$1,230.00 as set out in accordance with Chapter 7-31-3101-3112 of the Lawton City Code and Council Policy 9-2 Parade and Assembly Policy for support of the Southwest Oklahoma Alzheimer's Walk in Elmer Thomas Park to be held November 2, 2013 and hereafter to be considered as an annual city co-sponsored event. Exhibits: None.
5. Consider authorizing the M28 Ministries of Lawton, Oklahoma to raise funds for the purpose of making improvements to the Bridge Park Pavilion and other existing facilities located on the corner of Sheridan and D Ave in Lawton. Exhibits: Letter of request from M28 Ministries.
6. Consider allowing the Parks & Recreation Department to Co-sponsor with the Lawton Athletic Foundation Inc. a series of football tournaments for the year 2013. Exhibits: None.
7. Consider approving the waiving of special assistance and property usage amount of \$400 (Non-Refundable Deposits) as set out in accordance with Chapter 7-31-3101 -3112 of the Lawton City Code and Council Policy 9-2 Parade and Assembly Policy for support of the Lawton Public Schools High School Football games scheduled at Cameron University. Exhibits: None.

8. Consider granting the Right of Access to NW Quanah Parker Trailway to Lawton Marketplace Investors, LP, and Target Corporation to serve the Lawton Marketplace development located at the southwest corner of NW 82<sup>nd</sup> Street and NW Quanah Parker Trailway. Exhibits: Right of Access document on file in the City Clerk's Office.
9. Consider granting the Right of Access to NW Quanah Parker Trailway to Laugh Out Loud, LLC, for property located at 6720 NW Quanah Parker Trailway. Exhibits: Right of Access document on file in the City Clerk's Office.
10. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on: the west side of SW 69<sup>th</sup> Street between SW Delta Avenue and SW 70<sup>th</sup> Street; and northbound and southbound SW Sheridan Road in advance of SW Wolf Street. Exhibits: **Resolution 13-56**, Traffic Commission Minutes and Traffic Issue Requests.
11. Consider awarding a contract for the SE Flower Mound Road Sewer Line Upgrade Project 2012-5 to McKee Utility Contractors, Inc. of Prague, Oklahoma in the amount of \$865,682.50. Exhibits: Location Map. Bid Tabulation is on file in the Engineering Division's Office.
12. Consider accepting the South Wolf Creek Expansion #1 Siphon Project and placing the Maintenance Bond into effect. Exhibits: None.
13. Consider approving Change Order No. 1 for the 2012 CIP Mill & Overlay Project (West Gore Boulevard from Lawton Country Club to 67<sup>th</sup> St. #2013-5). Exhibits: Change Order #1 is on file at the Engineers Office
14. Consider extending contract (RFPCL12-001) Collection of Overdue Utility Bills with United Adjustment Corporation of Kentland, IN. Exhibits: Department Recommendation, Contract Extension Form, Price Bid Sheet.

Tanner stated he does not disapprove of this contract but his issue is that he likes to maintain control of the debt and if we farm it out we limit the things we can do with the debt, like for instance, it would be difficult to forgive the debt.

Bart Hadley, Acting Director of Finance, stated staff does not have the ability to forgive the debt, but if there were certain circumstances council could give that direction. Anything that is handed out to the collection agency, they could pull back.

Tanner stated if they did pull the debt back from the collection agency, would they still receive their 13.5%.

Barbara Curren, Revenue Services Supervisor, stated once they initiate proceedings and have done the collection work on that account they would be entitled to their percentage.

Tanner questioned why we don't do this ourselves.

Curren stated we do not have the manpower to do collections and to do it in house she would need more staff.

Tanner stated we do not have the money to add staff and he is not recommending that option. He questioned how long it has been since we collected our own debt.

Curren stated we have never done it 100% ourselves. She stated she came to work at the City in 1988 and prior to that we were still using the local collection agency.

Tanner questioned how much debt is owed to the City by citizens.

Curren stated earlier in the afternoon they had told Councilmember Tanner that is was approximately \$3.4 million, which is the entire receivables, not what is in collections.

Tanner stated he thought they told him \$4.5 million. He stated it is a large number. He questioned how much it was a couple of years ago.

Curren questioned if he was talking about bad debt.

Tanner stated yes, those who have not paid their water bills and it is sent over to the debt collection agency.

Curren stated they estimate it at a little over 1%.

Tanner stated he is talking about the dollar amount. He thought he was told \$1.8 million.

Mayor Fitch stated 1% of \$3.2 million is not \$1.8 million. He stated if we have 1% write off, that is a pretty good number.

Bellino-Hall questioned what Councilmember Tanner was trying to get at. She stated they need to get on with this.

Tanner stated in the past if you had rental property and you had multiple units and some were vacant, you could file for a vacancy. This was stopped about ten years ago. Last year he came before council to discuss leak adjustments. If you had an undetected leak, you used to be able to go to revenue services and they could adjust that off, but we stopped doing that because it is on their side of the meter and their responsibility.

Mayor Fitch stated Councilmember Tanner is getting into a lot of other things other than approving a contract with a collection agency.

Tanner stated he is wondering that if two years ago we are sending off \$2 million in debt and today we are sending of \$4.5 million, it has increased. He is wondering if the reason for this is that we used to help out the citizens and adjust their water bill.

MOVED by Bellino-Hall SECOND by Burk to approve extending contract (RFPCL12-001) Collection of Overdue Utility Bills with United Adjustment Corporation of Kentland, IN.

Jackson stated if this is something Councilmember Tanner feels strongly about, he suggested he agenda a future item and this can be discussed.

Tanner stated he just wanted to discuss the increase in the debt that we are sending to this debt collection agency.

Curren stated they have not sent \$4 million to the collection agency. Since October 2011 they have sent a little over \$1 million. They have collected about 40% of that.

Tanner stated his hypothesis may be totally off, but he is bringing this issue up because it means a lot to him. He would like to help the citizens of Lawton out that have suffered the misfortune of having an undetected water leak, and on top of that we are sending it out the debt collection agency.

Mayor Fitch stated there is a motion and a second, please vote.

VOTE ON MOTION: AYE: Morford, Jackson, Bellino-Hall, Burk, Zarle, Haywood, Wells.  
NAY: Tanner. MOTION CARRIED.

15. Consider extending contract (CL13-014) Topsoil with Ballou Topsoil of Elgin, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Bid Sheet.
16. Consider rejecting all bids on (CL14-001) Police Weapons Trade. Exhibits: Department recommendation.
17. Consider approving appointments to boards and commissions. Exhibits: None.
18. Consider approval of payroll for the periods of August 19 – September 1, 2013.

NEW BUSINESS ITEMS:

19. Hold a public hearing and consider issuing a Certificate of Public Convenience and Necessity to Americab LLC to increase their number of allowed cabs from eleven (11) to twenty-five (25). Exhibits: Application with Required Submittal Documents and Notice of Public Hearing.

Richard Rogalski, Community Services Director, stated the City Council must conduct a public hearing to determine if there is a need to allow Americab to increase the number of cabs they are allowed to operate from eleven to twenty-five. Americab originally came to council and were approved to operate eleven cabs. Since that time they have grown and they want to operate more cabs on the road. Per Section 7-24-2-2414, four questions are given to help decide whether any additional taxicabs are needed within the city.

*1) What is the current number of taxicabs already in service?* The City of Lawton currently has three (3) taxicab companies licensed, with 10, 12, and 14 vehicles respectively, totaling thirty-six (36) taxicab vehicles currently licensed. On August 10, 2013, a long time taxicab company closed removing eight (8) taxicabs from the streets. In addition to the listed taxicab companies, LATS, Red River and other such transit systems are also in operation within the city.

*2) Is the existing transportation adequate to meet the public need?* According to online research, the percentage of non-vehicle households in Lawton is 11.26%. For comparison, Oklahoma City has 3.31%, Norman 3.44%. Altus 6.21% and the State of Oklahoma as a whole is 5.54%. In 2005, a study was done to try to answer the question of how many taxicabs are needed within certain US cities. The study found that there is not a sure calculation that can be done to determine the number of taxicabs needed within a city, but there are a few main factors that influence the number: population, other public transportation ie. subways or buses, and number of non-vehicle households. Based on a graph from this study, solely taking population into account, a city the size of the City of Lawton should need anywhere from 32-48 taxicabs. Therefore, based on the high percentage of non-vehicle households, the City of Lawton should be able to support additional taxicabs.

*3) What is the probable effect of the increased service on local traffic conditions?* The effect of eleven (11) additional vehicles on our local streets, should not affect any local traffic conditions.

*4) What is the character, experience and responsibility of the applicant?* Americab LLC was established in February of 2012, with four drivers and has grown such that it employs seventeen. The owners of Americab LLC also own and operate VIP Transportation of Altus and VIP Limousines of Lawton. The provided financial statement does not show a large amount of assets. Since Americab has been issued a certificate of public convenience and necessity allowing them to operate within the City of Lawton, we are unaware of any complaints.

Wells questioned if the eight cabs that were removed in August were reflected in the 36 cabs.

Rogalski stated no.

Wells stated we had 44 authorized before.

Rogalski state yes.

The other cab companies that are operating have a higher number that they are allowed whether they are utilizing that number or not.

Rogalski stated yes. Historically they have had additional cab licenses with less on the road. There have been no issues with Americab and everything they have heard has been positive.

Wells stated they have gone from four employees to seventeen.

Rogalski stated they have hired most of the drivers from the cab company that closed and that is why they want to get more cabs on the road.

PUBLIC HEARING OPENED.

Terry Jones, 1908 SW 24<sup>th</sup> Street, stated he has been involved in the cab business since 1992 with People's Cab. He stated the City of Lawton gives them certain requirements to meet like any other business. It should be the same playing field for everyone. It was a requirement to have two way radios and when Americab started in February they were told this was a requirement and they still do not have them. Everyone needs to be under the same regulations. If they are required to have two way radios in cars, everyone should.

Haywood clarified that they had to have two way radios in the cabs.

Mr. Jones stated that has been a requirement since 1998.

Haywood questioned if Americab was required to have this.

Rogalski stated that is an antiquated piece of code and is something they need to look at. He stated all the companies should follow the same rules and he will look into that issue. He was unaware this was an issue.

Mayor Fitch stated staff can look at the issues with the regulations and clean it up to match today's technology, but the issue today is a company that wants the ability to have the number of cabs that everyone else has.

Candy Hanza, owner of Americab, stated Lawton Communications offers two way radios that they use. They have a home office and a dispatcher and everything that the city requires. She stated they receive 4,200 calls a month and her drivers are busy. Her company has received full access to base and they fought for that access for all the cab companies. She stated they are in the process of buying the customer list from the cab companies that recently closed. They are going to get very busy and they need more cabs on the road.

Tanner stated he just wants to make sure all the cab companies are playing by the same rules. Mr. Jones said that may not be the case.

Mayor Fitch stated that was addressed earlier and it is an ordinance issue that staff will look into. This issue is giving Americab the same opportunity that the other businesses have as far as the number of cabs they can have.

Tanner questioned if Mr. Jones needs more cabs.

Mr. Jones stated no, they are authorized to have 23.

PUBLIC HEARING CLOSED.

MOVED by Jackson **SECOND** by Morford to approve the issuing of a Certificate of Public Convenience and Necessity to Americab LLC to increase their number of allowed cabs from eleven to twenty-five. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. **MOTION CARRIED.**

20. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to P-F (Public Facilities District) zoning classification on property located at 11 – 29 NW 35<sup>th</sup> Street. Exhibits: Ordinance No. 13-29 with Binding Site Plan, Location Map, Application and CPC Minutes.

Rogalski stated this request includes Lots 1 – 7, Block 5, Tomlinson Ridge 2<sup>nd</sup> Addition which is part of the Comanche County Memorial Hospital campus. The zoning of the surrounding area is R-1 to the north and west and P-F to the south and east. The land use of the surrounding area is single-family residential to the north and west and Comanche County Memorial Hospital to the south and east. The current land uses of the requested area are parking and landscaping. The proposed uses are the same with the addition of an expansion of the emergency room on Lot 7. The expansion of the hospital will also require the relocation of the helipad to the roof of the hospital. The 2030 Land Use Plan designates this area as Public. On July 25, 2012, the City Planning Commission held a public hearing on this request. During the public hearing two persons spoke in favor of the request. One person questioned whether the greenscape would remain and was assured by representatives of the hospital that it would. The CPC, by a vote of 6 to 0, recommended approval of the rezoning. Notice of public hearing was mailed to 31 property owners within 300 feet of the requested area on August 20, 2013, and proper notice was published in *The Lawton Constitution* on August 25, 2013.

**PUBLIC HEARING OPENED.**

John Mackey, Attorney for Comanche County Memorial Hospital, stated he and Randy Seigler, CEO of Comanche County Hospital Authority, are in attendance to answer any questions the council may have. He stated some of this was already public facilities but some was R-1 with use permitted on review and it was pointed out to them by the planning division that it would probably be best to change all the zoning and make it uniform to public facilities district. He stated the neighbors were glad to hear that they were putting the helipad on the roof of the emergency room. There will not be any fuel stored there and it should be a little quieter.

**PUBLIC HEARING CLOSED.**

MOVED by Bellino-Hall **SECOND** by Burk to adopt **Ordinance 13-29**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. **MOTION CARRIED.**

(Title read by City Attorney)

Ordinance 13-29

An ordinance changing the zoning classification from R-1 (Single-Family Dwelling District) to P-F (Public Facilities District) on the tract of land herein described; approving the site plan attached as Exhibit A; and authorizing changing the official zoning map in accordance with this ordinance.



21. Consider approving funds distribution to requesting entities regarding Hotel/Motel tax for FY 2013/2014 for the purpose of encouraging, promoting and fostering tourism and economic development in the City of Lawton, allowing City Attorney to begin drafting agreements for said distributions Exhibits: City Manager's Funding Distribution Proposal for FYE 2014, Budget Excerpt, FYE 2013, Approved Hotel/Motel Activity, Funding Request Letter from AFYMCA AND Funding Request Letter from Lawton Philharmonic.

Jackson stated the issue of distribution of the hotel/motel tax money is very important to a lot of the groups sitting in the audience. To some it is their operating budget and it is very important. He feels the issue needs to be tabled and he requested that a three member council committee be appointed to study this issue and bring back a recommendation to the council in the near future.

Wells stated he would like to serve on the committee.

Mayor Fitch appointed Jackson, Wells, Zarle and Bellino-Hall to serve on this committee.

Tanner questioned how they came to allocate this money.

Wells stated previous councils allocated to these groups.

Tanner stated if these groups were happy with the way the money was allocated they might as well approve it and be done with it.

Burk stated he worked extensively with the chamber and the groups that are here tonight to get this approved five or six years ago. They got it moved to where 70% went to the chamber and they broke it down accordingly. He was told that when they started adding all these groups, it would come back and be a free for all and many other organizations were going to come and ask for that money. He fought that it would not happen, but it looks like that is the crossroads they are at today. He hopes that the committee that works on this is under the understanding that we have to work with the chamber, it is not just a number that can be changed arbitrarily, because this went to a vote of the people about what this was designed to be used for, this is not some frivolous idea that a council can just change arbitrarily without having some background. He hopes that the chamber is involved in this process. He wants to support some of the things on here and he wants to support the library. He wants to support everything but that is not reality and he is not sure that is true in the form of economic development that they discussed for hotel/motel tax. They have to figure out a way to fund the library so they don't lose the state funds. When they first did this they expected the allocation to be about \$1.2 - \$1.4 million at this stage in the game and it is not there. The numbers are down. They are messing with the people who helped get this approved which were the hotel folks and the chamber of commerce. If they start messing with this, they will mess with the possibility that a lot of people who supported this in the past will not support it when it comes back up for a vote. He hopes the committee looks at both sides of this and realizes we all need to tighten our belts, but we have to remember if the total allocation is down then everyone has to take a hit. He hates for us to go in there changing numbers and at this point he does not feel that would be the greatest idea.

Jackson stated Councilmember Burk is right and that is the direction he would like to see the committee go. He stated the estimate budget today is \$896,000, so it is hard for them to increase budgets when the overall hotel/motel tax is falling drastically. The committee will need to look at all of the issues and they will try to do this as quickly as possible.

Burk suggested the committee include some of the representatives from the chamber and other organizations that are requesting funding.

Wells stated they may add to it once they meet and decide which way they are going.

Jackson stated everything they do in the city is an open meeting so everything will be public, but he would like the first meeting to be with the four council members so they can establish some ground rules and then they will invite a representatives from each one of these organizations.

Mayor Fitch stated he would like to see representatives from entities that have applied currently. They need to show what monies they are raising outside of what they get from the City and where those monies are being spent and they need to look at overhead costs. They need to be sure they are all submitted with a series of questions that they can answer.

Jackson suggested the committee request an audited budget from each one of these groups.

Tanner stated he does not understand what is wrong with how it is proposed now.

Mayor Fitch stated there are issues to be discussed. It is a possibility that if you cut funding to the museum they may lose some other funding. They need to look at the whole thing and not make a rash decision tonight.

MOVED by Jackson SECOND by Wells to table and establish a council committee to include Councilmembers Jackson, Wells, Bellino-Hall and Zarle. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

Mayor Fitch appointed Jackson as chairman of this committee and asked that he keep him posted on how things are progressing.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

No reports.

The Mayor and Council convened in executive session at 6:56 p.m. and reconvened in regular, open session at 7:44 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

22. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of George Steven Smith vs. City of Lawton, CJ-2012-379, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #22.

MOVED by Wells SECOND by Haywood to authorize the City Attorney to file an appeal with the Oklahoma Supreme Court regarding pending Comanche County District Court Case CJ-2012-379 George Steven Smith vs. City of Lawton. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Kerry Fryer-Price vs. City of Lawton, CJ-2012-278, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #23. No action was taken.

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in the Western District of Oklahoma of Robert Puccino, Jr. and Ronald Smith Sr. vs. City of Lawton, et al, 13-CV-0238-R, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #24. No action was taken.

There being no further business to consider, the meeting adjourned at 7:47 p.m. upon motion, second and roll call vote.

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FRED L. FITCH, MAYOR

ATTEST:

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TRACI HUSHBECK, CITY CLERK